

Decision

IN THE MATTER OF

CHESTER G. SCHWEDLER DOING BUSINESS AS
SOUTHWEST BUSINESS SERVICECONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 7501. Complaint, May 29, 1959—Decision, Sept. 26, 1959*

Consent order requiring an individual in Phoenix, Ariz., to cease using deception in selling real estate advertising, including such false claims as that his advertising would sell properties, that he disseminated flyers to a great number of prospective buyers throughout the country describing the property for sale, and that he continued to advertise each property until it was sold.

Mr. John J. Mathias and Mr. John W. Brookfield, Jr., supporting the complaint.

Respondent, *Pro Se*.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On May 29, 1959, the Federal Trade Commission issued a complaint charging Chester G. Schwedler, an individual trading and doing business as Southwest Business Service, hereinafter referred to as respondent, with violating the provisions of the Federal Trade Commission Act by use of false, misleading and deceptive representations, acts and practices in connection with his business of soliciting the sale of advertising, and advertising for sale, real estate and other properties.

After issuance and service of the complaint, the respondent and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the Director and the Assistant Director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondent admits all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondent waives the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondent waives further procedural steps before the hearing examiner and

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the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondent waives any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

The undersigned hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Chester G. Schwedler is an individual trading and doing business as the Southwest Business Service, with his principal office and place of business located at 1511 E. Cypress Street, Phoenix, Arizona.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Chester G. Schwedler, trading and doing business as Southwest Business Service, or under any other name or names, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, or sale of advertising or of other services or facilities in connection with the offering for sale, selling, buying or exchanging of business or any other kind of property, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Property advertised by respondent will be sold as a result of such advertising or other services;

2. Respondent disseminates flyers describing the property for sale to a great number of prospective buyers throughout the country; or to any number of prospective buyers in any location that is not in accordance with the fact;

3. Respondent continues to advertise each property until it is sold, or continues to advertise the property for any length of time that is not in accordance with the fact.

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DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 26th day of September, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

IN THE MATTER OF

MANDEL BROTHERS, INC.

MODIFIED ORDER, IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket 6434. Modified order, Sept. 29, 1959

Order rephrasing, in accordance with the order of the Supreme Court of May 4, 1959, 359 U.S. 385, affirming as thus modified, the Commission's order of July 5, 1957, 54 F.T.C. 50, requiring cessation of false invoicing, false advertising, and misbranding of fur products.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Commission upon the whole record, including briefs and oral argument; and the Commission having rendered its decision and having issued its order to cease and desist on July 5, 1957; and

Respondent Mandel Brothers, Inc., having filed in the United States Court of Appeals for the Seventh Circuit its petition to review and set aside the order to cease and desist issued herein, and that court having rendered its decision on April 1, 1958, modifying said order of the Commission¹; and

The Supreme Court of the United States thereafter on May 4, 1959, having reversed the United States Court of Appeals for the Seventh Circuit with respect to the modification ordered and the Supreme Court having directed that the said order of the Commission, in certain respects be rephrased²; and

¹ 254 F. 2d 18.

² 359 U.S. 385.

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The United States Court of Appeals for the Seventh Circuit having denied the petition of respondent to set aside the Commission's order to cease and desist, and having thereafter on September 3, 1959, entered its final decree modifying, in accordance with the decision of the Supreme Court of the United States, and affirming and enforcing, as modified, the order to cease and desist issued by the Commission on July 5, 1957:

Now, therefore, it is hereby ordered, That respondent, Mandel Brothers, Inc., a corporation, and its officers representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product, or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which has been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from—

A. Misbranding fur products by—

1. Failing to affix labels to fur products showing each element of information required by the Act;
2. Setting forth on labels attached to fur products—
 - (a) Required information in abbreviated form or in handwriting;
 - (b) Non-required information mingled with required information.

B. Falsely or deceptively invoicing fur products by—

1. Failing to furnish invoices to purchasers of fur products showing each element of information required by the Act;
2. Setting forth required information in abbreviated form;
3. Failing to show the item number or mark of fur products on the invoices pertaining to such products.

C. Falsely or deceptively advertising fur products through the use of any advertisement, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of fur products, and which represents directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the price at which respondent has usually and customarily sold such products in the recent regular course of its business;

D. Making pricing claims or representations of the type referred to in Paragraph C above, unless there is maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

